

November 21 2007

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 06-0120

MARVIN and KATHY KAPTEIN,

Plaintiffs,

v.

MARY KAY MALLOY,

Defendant.

ORDER

On November 14, 2007, Mary Kay Malloy, appearing pro se, filed an "Affidavit of Defendant Mary Kay Malloy in Support of Disqualification of Judge for Cause," seeking to remove Honorable E. Wayne Phillips, District Judge, for cause pursuant to § 3-1-805, MCA, in Pondera County Cause No. DV-06-58.

The affidavit filed by Defendant Malloy is based on an allegation that the challenged judge has referred a matter to the Commission on Unauthorized Practice. The affidavit does not allege facts showing personal bias or prejudice against the complaining party as required by § 3-1-805, MCA.

IT IS THEREFORE ORDERED:

1. The motion to disqualify the district judge in Pondera County Cause No. DC-06-58 is denied.
2. The Clerk is directed to mail a true copy hereof to the Clerk of the District Court of Pondera County, Montana, for notification to counsel of record in DC-06-58 and to the Honorable E. Wayne Phillips, District Judge.

DATED this 21st day of November, 2007.

Karla M. Inay
Chief Justice
W. William Luyk

Paul S.

Patricia Cotton

John Warner

Brian M. M...

Justices